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*and Pesticide Action Network North America*

16  
17 UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

18  
19 PINEROS Y CAMPESINOS UNIDOS DEL )  
NOROESTE, UNITED FARM WORKERS, )  
20 FARMWORKER ASSOCIATION OF FLORIDA, )  
and PESTICIDE ACTION NETWORK NORTH )  
21 AMERICA )

22 Plaintiffs, )

23 v. )

24 E. SCOTT PRUITT, in his official capacity as )  
Administrator of the U.S. Environmental Protection )  
25 Agency; and U.S. ENVIRONMENTAL )  
PROTECTION AGENCY, )

26 Defendants. )  
27 )  
28 )

Case No: 3:17-cv-03434 JSW

**PLAINTIFFS' RESPONSE TO NOTICE  
OF RELATED ADMINISTRATIVE  
ACTION**

1 On December 14, 2017, after briefing for Plaintiffs’ summary judgment motion had  
2 concluded, EPA filed a Notice of Related Administrative Action (“Notice”). The Notice  
3 concerns an administrative notice EPA published on December 13, 2017 on its website  
4 informing the public and relevant stakeholders that EPA “has initiated a rulemaking process to  
5 revise minimum age requirements in the Certification of Pesticide Applicator rule.” Doc. No.  
6 37-1. The December 13 notice also “clarified” that EPA has “no plans to change” the  
7 implementation dates set forth in the original rule published on January 4, 2017. Doc. No. 37  
8 at 2.

9 EPA does not indicate how this new announcement to revisit substantive aspects of the  
10 Pesticide Rule affects Plaintiffs’ standing in this case or any other aspects regarding the merits of  
11 Plaintiffs’ challenge and it would be hard pressed to do so. This announcement, including EPA  
12 stating there are suddenly now no plans to delay compliance deadlines, despite representing  
13 otherwise in published notices and stakeholder meetings, has no impact on the merits of  
14 Plaintiffs’ claims, especially given the announcement occurred after the unlawful acts occurred.  
15 It also does not impact Plaintiffs’ standing because the announcement does not alter Plaintiffs’  
16 procedural or substantive injuries in this case. It certainly has no effect on Plaintiffs’ procedural  
17 injury resulting from EPA’s admitted failure to comply with both APA and FIFRA rulemaking  
18 requirements relating to notice, public comment, and consultation requirements when EPA  
19 suspended the Pesticide Rule’s effective date. The announcement also does not impact  
20 Plaintiffs’ substantive injuries as the intended impact of delaying the Pesticide Rule has been  
21 realized and will continue unabated – indeed, the recent notice will likely only exacerbate the  
22 injury. First, as noted in the declarations submitted with Plaintiffs’ Reply, *see* Doc. No. 35-1 &  
23 35-2, neither States nor EPA has undertaken efforts over the past eleven months to meet the  
24 current compliance deadlines given the delays in the effective date and express statements from  
25 EPA both in the Federal Register and in a public meeting that compliance deadlines would be  
26 delayed as well. *See* Doc. No. 35 at 9. As a result, regardless of EPA’s sudden about face, it is  
27 highly unlikely that States can now turn on a dime to comply with the original compliance  
28 deadline, especially given that the States have always made it clear they would need the full

1 three years to submit any plans. 82 Fed. Reg. 1023-1024 (Jan. 4, 2017). Second, States  
2 understandably will hesitate to expend resources to comply with a rule that continues to change,  
3 including newly noticed EPA plans to undertake substantive revisions. Consequently, Plaintiffs'  
4 harm from the delays, articulated in the briefs, continues unabated.

5  
6 Respectfully submitted,

7 DATED: December 19, 2017

/s/ Stacey P. Geis

8 STACEY P. GEIS

9 EVE GARTNER

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10 VIRGINIA RUIZ

11 Farmworker Justice

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